

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK-----  
DAVID A. JOFFE,

Plaintiff,

-- against --

KING &amp; SPALDING LLP,

Defendant.  
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Civil Action No.: 17-cv-3392  
(VEC)(SDA)

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**PROPOSED SUPPLEMENTAL JOINT PRETRIAL ORDER**

Pursuant to this Court's Order dated October 22, 2021 (Doc. No. 284), Plaintiff David A. Joffe and Defendant King & Spalding LLP submit the following Proposed Supplemental Joint Pretrial Order to submit new exhibits not included in the Proposed Updated Joint Pretrial Order filed on March 5, 2021 (Doc. No. 267).

**Plaintiff's Exhibits**

<b><u>Ex.</u></b>	<b><u>Description</u></b>	<b><u>Objection</u></b>	<b><u>Response</u></b>
P-195	Melissa Angell, <u>Fired King &amp; Spalding Atty Gets Trial Date Pushed Back</u> , Law360 (June 23, 2021) (REDACTED)	FRE 402 – irrelevant; FRE 403 – unfair prejudice and jury confusion	Relevant to damages; danger of unfair prejudice or confusion does not substantially outweigh probative value; FRE 602 does not apply to expert testimony; falls within scope of expert testimony
P-196	Rachel Stone, <u>November Trial Eyed For King &amp; Spalding Attys Firing Suit</u> , Law360 (July 1, 2021) (REDACTED)	FRE 402 – irrelevant; FRE 403 – unfair prejudice and jury confusion	Relevant to damages; danger of unfair prejudice or confusion does not substantially outweigh probative value; FRE 602 does not apply to expert testimony; falls within scope of expert testimony

P-197	<p>Updated Calculations for Revised Appraisal of Economic Loss to David A. Joffe (P-138) (updated as of Oct. 26, 2021)</p> <p>[NOTE: Non-updated calculations and explanatory note regarding updated calculations to be provided to defense counsel October 29, 2021, pursuant to October 27, 2021 teleconference with the Court.]</p>	<p>FRCP 26(a)(2)(D)(i), 26(e), and 37(c) – untimely supplement to expert disclosure; FRE 403 – unfair prejudice and jury confusion; FRE 702 – improper expert opinion; FRE 802 – hearsay</p>	<p>Non-updated calculations and explanatory note regarding updated calculations to be provided to defense counsel October 29, 2021, pursuant to October 27, 2021 teleconference with the Court.</p> <p>Any risk of unfair prejudice or jury confusion outweighed by probative value. Expert opinion is reliable and helpful to trier of fact. <u>See</u> Fed. R. Evid. 702. Not offered to prove truth of matter asserted; to extent offered to prove truth of matter asserted, “is consistent with the declarant’s testimony” and may be offered “to rebut an express or implied charge that the declarant ... acted from a recent improper influence or motive ... [and/or] to rehabilitate the declarant’s credibility,” <u>see</u> Fed. R. Evid. 801(d)(1)(B).</p>
P-198	Curriculum Vitae of Kristin Kucsma (Updated October 2021)	[N/A]	[N/A]

**Defendant's Exhibits**

<b><u>Ex.</u></b>	<b><u>Description</u></b>	<b><u>Objection</u></b>	<b><u>Response</u></b>
D-120	9/9/2020 – 9/10/2020 email thread (DJ0895-96)	FRE 402 – irrelevant	Relevant to reasonableness of plaintiff's mitigation efforts
D-121	9/14/2020 email and attachments (DJ0923-26)	FRE 402 – irrelevant; FRE 403 – unfair prejudice and jury confusion	Relevant to damages; no danger of unfair prejudice or confusion and probative value substantially outweighs any such danger
D-122	10/2/2020 email thread (DJ1062-63)	FRE 402 – irrelevant; FRE 403 – unfair prejudice and jury confusion	Relevant to damages; no danger of unfair prejudice or confusion and probative value substantially outweighs any such danger
D-123	10/29/2020 email thread (DJ1353)	FRE 402 – irrelevant; FRE 403 – unfair prejudice and jury confusion	Relevant to reasonableness of plaintiff's mitigation efforts; no danger of unfair prejudice or confusion and probative value substantially outweighs any such danger
D-124	Curriculum Vitae of Thomas N. Hubbard (Updated October 2021)	N/A	
D-125	Thomas N. Hubbard demonstrative exhibit (The Am Law 100 – Sorted by 2017 non-equity partner compensation)	FRE 402 – irrelevant; FRE 403 – unfair prejudice and jury confusion; FRE 702 – improper expert opinion	Relevant to rebuttal expert testimony; no danger of unfair prejudice or confusion and probative value substantially outweighs any such danger; falls within scope of rebuttal expert testimony
D-126	Thomas N. Hubbard demonstrative exhibit (The Am Law 200 – Sorted by 2017 non-equity partner compensation)	FRE 402 – irrelevant; FRE 403 – unfair prejudice and jury confusion; FRE 702 – improper expert opinion	Relevant to rebuttal expert testimony; no danger of unfair prejudice or confusion and probative value substantially outweighs any such danger;

			falls within scope of rebuttal expert testimony
D-127	Thomas N. Hubbard demonstrative exhibit (chart of Kucsma's Scenario A, Alternative 1)	FRE 403 – unfair prejudice and jury confusion; FRE 702 – improper expert opinion	No danger of unfair prejudice or confusion and probative value substantially outweighs any such danger; falls within scope of rebuttal expert testimony
D-128	Thomas N. Hubbard demonstrative exhibit (chart of Kucsma's Scenario A, Alternative 2)	FRE 403 – unfair prejudice and jury confusion; FRE 702 – improper expert opinion	No danger of unfair prejudice or confusion and probative value substantially outweighs any such danger; falls within scope of rebuttal expert testimony
D-129	Thomas N. Hubbard demonstrative exhibit (chart of Kucsma's Scenario B)	FRE 403 – unfair prejudice and jury confusion; FRE 702 – improper expert opinion	No danger of unfair prejudice or confusion and probative value substantially outweighs any such danger; falls within scope of rebuttal expert testimony
D-130	Thomas N. Hubbard demonstrative exhibit (chart of median earnings by age of attorneys working full-time at law firms, 2016)	FRE 402 – irrelevant; FRE 403 – unfair prejudice and jury confusion; FRE 702 – improper expert opinion	Relevant to rebuttal expert testimony; no danger of unfair prejudice or confusion and probative value substantially outweighs any such danger; falls within scope of rebuttal expert testimony
D-131	Printouts from law firm websites	FRE 402 – irrelevant; FRE 403 – unfair prejudice and jury confusion; FRE 702 – improper expert opinion; FRE 802 – hearsay	Relevant to rebuttal expert testimony; no danger of unfair prejudice or confusion and probative value substantially outweighs any such danger; falls within scope of rebuttal expert testimony; offered as examples of industry practice

D-132	Thomas N. Hubbard demonstrative exhibit (chart demonstrating impact on Kucsma's Scenario A, Alternative 1, from two alternative assumptions)	FRE 403 – unfair prejudice and jury confusion; FRE 702 – improper expert opinion	No danger of unfair prejudice or confusion and probative value substantially outweighs any such danger; falls within scope of rebuttal expert testimony
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PROSKAUER ROSE LLP

DAVID A. JOFFE

By: /s/ Joseph Baumgarten

/s/ David A. Joffe

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**SO ORDERED:**

Honorable Valerie Caproni, U.S.D.J.